

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7887

MARK ROBINSON,

Petitioner - Appellant,

versus

COMMONWEALTH OF VIRGINIA,

Respondent - Appellee.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Samuel G. Wilson, Chief District Judge. (CA-02-790-7)

Submitted: May 28, 2004

Decided: June 28, 2004

Before WILKINSON, NIEMEYER, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Mark Robinson, Appellant Pro Se. John H. McLees, Jr., OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Mark Robinson seeks to appeal the district court's order denying his motion for reconsideration, after its earlier conditional grant of reconsideration of its order denying without prejudice Robinson's petition for relief filed under 28 U.S.C. § 2254 (2000). An appeal may not be taken to this court from the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a state court unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(2000). When a district court dismisses a § 2254 petition on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir. 2001) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)). A certificate of appealability will not issue for claims addressed by the district court on the merits absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2)(2000). We have independently reviewed the record and conclude that Robinson has not made the requisite showing. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). Accordingly, we deny Robinson's motions for

general relief, deny a certificate of appealability, and dismiss the appeal. See 28 U.S.C. § 2253(c) (2000). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED